IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 131 OF 1997

The Commissioner of Income-tax,
Bombay City-I, Bombay. ...Applicant
V/s.
Indian Resort Hotels. ...Respondent

Mr.Ashok Kotangle for Applicant-Revenue.
Mr.P.C. Tripathi i/b. M/s.Gagrat & Co. for Respondent-Assessee.

CORAM : V.C. DAGA AND
A.S. AGUIAR, JJ.

DATED : JULY 5, 2005.

P.C. :-

. This is the reference made by the Income Tax Appellate Tribunal arising out of the order of the Tribunal, for the assessment year 1984-85. The following question is referred for our opinion :-

> "Whether, on the facts and circumstances of the case, the Tribunal was right in law in upholding the order of the CIT(A) that the hotel building is a plant eligible for depreciation and extra shift allowance as admissible to plant & machinery?"

2. Both the learned Counsel for the parties agree that the issue involved in the above question is squarely covered by the Judgment of the Apex Court in the case of **C.I.T. V/s. Anand Theatres, (2000) 244 ITR 192** wherein the Apex Court held that the hotel building not entitled to depreciation at rate applicable to plant.

3. In view of the law laid down by the Apex Court, the above question is answered in negative i.e. in favour of the revenue and against the assessee. Reference, accordingly, stands disposed of with no order as to costs.

(A.S. AGUIAR, J.) **(V.C. DAGA, J.)**